

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JIMI ROSE,)	CIVIL RIGHTS ACTION
Plaintiff)	
vs.)	No. 02-CV-3842
)	
CITY OF ALLENTOWN, and)	JURY TRIAL DEMANDED
ZONING HEARING BOARD OF)	
THE CITY OF ALLENTOWN,)	
Defendants)	

**DEFENDANTS' ANSWER TO PLAINTIFF'S MOTION FOR
CONTINUANCE OF TRIAL**

NOW, come the Defendants, City of Allentown and Zoning Hearing Board of the City of Allentown, by counsel, James T. Huber, Esquire, and file this Answer opposing any continuance of the trial in this case for the following reasons:

1. This is a civil rights action filed by the Plaintiff in which he alleges that the Defendants committed various constitutional violations, including violations of his First Amendment rights, and violations predicated upon racial discrimination.

2. Since the filing of these very serious contentions, the Defendants have not only denied the contentions, but have aggressively sought a trial in this matter in order to vindicate themselves.

3. Since filing the action, the Plaintiff has engaged in a lengthy attempt to delay the case which has included the following.

- a. Failing to appear for depositions;
- b. Requesting discovery extensions and then, after the extension is granted, taking no discovery.

c. Extension requests to respond to the Defendants' Motion for Summary Judgment.

d. After the filing of the Defendants' Motion for Summary Judgment, a further request for discovery;

e. Filing another federal lawsuit, alleging virtually the same facts, at Eastern Case No. 04-CV-2853.

f. Seeking an extension of time to file a Pretrial Memorandum.

4. It is clear that the Plaintiff, while not hesitating to file claims,, does not want a jury to hear and decide his claims.

5. The allegations contained in the Motion for Continuance do not justify a continuance, specifically:

a. to the extent that the Plaintiff has items or information which are no longer in his possession, defense counsel would be willing to make a copy of his file, at the Plaintiff's expense, which contains the same information for purposes of trial.

b. the information which the Plaintiff is relying upon was also sent to the Court during the first five months of 2004, prompting the Defendants to seek an order from the Court requiring that the Plaintiff stop forwarding additional information.

c. despite alleging that the case cannot be tried because of the claimed missing information, the Plaintiff nevertheless (in paragraph 23) states that he is ready to proceed to trial non-jury, thus contradicting his suggestion that he is not able to proceed to trial.

6. The Plaintiff has made very serious allegations against the Defendants. They respectfully strenuously oppose any continuance of the trial.

WHEREFORE, come the Defendants, City of Allentown, and Zoning Hearing Board of the City of Allentown, by counsel, James T. Huber, Esquire, and respectfully oppose the Plaintiff's Motion to Continue the trial in the above-captioned matter.

RESPECTFULLY SUBMITTED,

James T. Huber, Esquire
HUBER AND WALDRON
535 Hamilton Mall, Suite 301
Allentown, Pennsylvania 18101
(610) 435-9790
I.D. No. 22089

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ORDER

NOW, this day of , 2005, upon consideration of the Plaintiff's Motion for Continuance of Trial, and the Defendants' Answer to said Motion, the Motion for Continuance of Trial is denied.

BY THE COURT:

J.

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CERTIFICATE OF SERVICE

I, James T. Huber, Esquire, hereby certify that I have mailed, by first-class, regular mail, a true and correct copy of Defendants' Answer to Plaintiff's Motion for Continuance of Trial and proposed Order upon:

Jimi Rose
911 Barnsdale Road
Allentown, Pennsylvania 18103

James T. Huber, Esquire

Dated: _____